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SEP 18 2009  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE  
ENTERED  
FILED



09-CV-01325-CMP

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

JOSEPH ANDREW HYLKEMA, a single  
man,  
Plaintiff  
v.

No. **C09 1325 RSM**  
COMPLAINT

GC SERVICES LIMITED PARTNERSHIP  
of Delaware; TOM DANCE and JANE  
DOE DANCE, BELINDA DOE and JOHN  
DOE, MIKE DOE, TANISHA DOE,  
DEVONNA DOE, KATIE FREEBERG,  
ANDRE DOE, SHARON DOE, KIRK  
BROWN, SARAH DOE, and JANE DOE  
ALTMAN; individually and the  
marital communities thereof,  
Defendants

COMES NOW the Plaintiff who, for causes of action set forth  
below, hereby sues defendants above-named (collectively referred  
to as "Defendant" herein) and for his complaint alleges the  
following:

1. NATURE OF ACTION

1.1. This is an action for damages for violations of the Fair  
Debt Collection Practices Act ("FDCPA"), 15 USC § 1692 et seq.

COMPLAINT - 1

JOSEPH ANDREW HYLKEMA  
477 PEACE PORTAL DRIVE #107-244  
BLAINE, WA 98230  
(206) 202-4530  
EMAIL: HYLKEMAJ@ISOMEDIA.COM

1 the Washington Collection Agency Act ("WCAA"), RCW 19.16 et  
2 seq., and the Washington Consumer Protection Act ("WCPA"), RCW  
3 19.86.020. Plaintiff brings this action in the capacity of a  
4 private attorney general to impose strict liability upon all  
5 defendants and each of them individually for their violations of  
6 the FDCPA, the WCAA, and the WCPA.

## 7 2. JURISDICTION AND VENUE

8 2.1. Jurisdiction arises under 28 USC §§ 1331, 1337(a), and 15  
9 USC § 1692k(d). Concurrent jurisdiction over the WCAA and WCPA  
10 claims arises under 28 USC § 1367. Venue is proper in this  
11 Court as Defendant transacts business here and the conduct  
12 complained of occurred here.

## 13 3. PARTIES AND BACKGROUND

14 3.1. Plaintiff is a *sui juris* adult who has been the subject of  
15 Defendant's debt collection activities that took place within  
16 this District and has been damaged thereby.

17 3.2. Defendant GC SERVICES LIMITED PARTNERSHIP ("GC") is a  
18 Delaware limited partnership. Upon information and belief, GC's  
19 calls originated from its offices located at 100 - 3870 N.  
20 Oracle Road, Tucson, AZ 85078 and 4454 N. Broadway, Knoxville,  
21 TN 37917.

22 3.3. GC is authorized to do business in the state of Washington  
23 through its registered agent, CT Corporation System located at  
24 206 - 1801 West Bay Drive NW, Olympia, WA 98502. Its Tucson

1 location is licensed as a collection agency by the Washington  
2 State Department of Licensing, but its Knoxville one is not.

3 3.4. GC is the assignee of Plaintiff's alleged obligation to pay  
4 money to non-party U.S. Department of Education (the "Alleged  
5 Debt.") The Alleged Debt arose out of transactions primarily  
6 for personal, family or household purposes.

7 3.5. Defendant GC's principal business purpose is the collection  
8 of debts. Defendant GC regularly attempts to collect debts  
9 asserted to be owed or due another using the telephone, mails,  
10 and other instrumentalities of interstate commerce and did so  
11 attempt to collect the Alleged Debt from Plaintiff.

12 3.6. Defendants Tom DANCE, Belinda DOE, Mike DOE, Tanisha DOE,  
13 Devonna DOE, Katie FREEBERG, Andre DOE, Sharon DOE, Kirk BROWN,  
14 Sarah DOE, and Jane Doe ALTMAN (the "Employee Defendants") each  
15 sued herein in their personal capacities, are *sui juris* adults  
16 and at all times relevant herein were employees of defendant GC.

17 3.7. Defendants Jane Doe DANCE and John DOE (the "Community  
18 Defendants") (the Employee Defendants and the Community  
19 Defendants, collectively, the "Individual Defendants") are the  
20 spouses of Defendants Tom DANCE and Belinda DOE, respectively,  
21 and are each sued herein in their community capacity.

22 3.8. Upon information and belief, the names used by the Employee  
23 Defendants are not their true names but are pseudonyms (in  
24 industry parlance, "desk names") used while attempting to

1 collect debts. Plaintiff therefore does not definitively know  
2 the true identities of the Employee Defendants at this time and  
3 they are therefore sued herein by such fictitious names.  
4 Plaintiff will ascertain the true identity of the Employee  
5 Defendants and will amend this Complaint to reflect the same.

6 3.9. All of the Employee Defendants' conduct complained of  
7 herein was done on behalf of, and in furtherance of, the marital  
8 community formed by them and their spouses, the Community  
9 Defendants.

10 3.10. The Employee Defendants were hired, trained, and  
11 supervised using GC's methods, materials, and personnel. All of  
12 the Employee Defendants' conduct complained of herein was done  
13 with GC's full knowledge, consent, and support; was within the  
14 course and scope of their employment with GC; and was done in  
15 furtherance of GC's business.

#### 16 4. STATEMENT OF FACTS

17 4.1. Defendant has attempted to collect the Alleged Debt through  
18 a seven-month campaign of phone calls and voice mail messages.

19 4.2. Defendant's campaign began in February 2009 and is ongoing.  
20 A true and correct record of Defendant's calls is attached  
21 hereto as Exhibit "A". True and correct audio copies of the  
22 messages left accompany this Complaint on a CD-ROM as Audio  
23 Exhibits 1 - 28.

1 4.3. On each call, Defendant conveyed information regarding the  
2 Alleged Debt to Plaintiff including, but not limited to, its  
3 account/reference/"case" number, *infra*.

4 4.4. Of the 28 messages left by Defendant, in none of them did  
5 it disclose that the call originated from a debt collector.

6 4.5. In 18 of them, (Audio Exhibits 1 - 6, 9 - 13, 16 - 18, 21,  
7 and 26 - 28) Defendant failed to provide any meaningful  
8 disclosure of the caller's identity.

9 4.6. Further, from July 9<sup>th</sup>, 2009 to July 16<sup>th</sup>, 2009, Defendant  
10 called Plaintiff four times (Audio Exhibits 21 - 24).

11 4.7. Additionally, most of the messages were deceptive and false  
12 in numerous other ways that would tend to mislead the least  
13 sophisticated consumer. More specifically:

14 FALSE SENSE OF URGENCY

15 4.7.1. Defendant DANCE (Audio Exhibit 1) falsely stated in his  
16 message that the call pertained to "documents received here in  
17 [his] office" [*sic*], that "[Plaintiff] really [wants] to know  
18 what's going on here," even though it "doesn't necessarily mean  
19 that things are going to be stopped." Defendant DANCE also  
20 falsely referred to the Alleged Debt's account number, 612746,  
21 as a "case number."

22 4.7.2. Defendant Mike DOE (Audio Exhibits 4 - 7) repeatedly  
23 implored Plaintiff to call him back about "materials" and  
24 "information" that he falsely claimed were "time sensitive."

1 4.7.3. Defendant Tanisha DOE (Audio Exhibit 9) falsely stated  
2 that it was "very important<sup>1</sup>" that Plaintiff call her back  
3 "today."

4 4.7.4. Defendant Tanisha DOE (Audio Exhibit 11) also implored  
5 Plaintiff to call her back with the false statements that she  
6 had "information that is very important" for Plaintiff or his  
7 legal counsel to fill out "by the time this week is over with  
8 [sic] [because she is] definitely running out of time."

9 4.7.5. Defendant Sarah DOE (Audio Exhibit 19) falsely stated, "it  
10 is in your best interest to contact me before 5 P.M. Eastern  
11 Standard Time today" or the next day.

12 4.7.6. Defendant Sarah DOE (Audio Exhibit 24), falsely claiming  
13 to be from the "finalizations department" and that she was  
14 calling "for the last time," angrily, and in an abusive tone,  
15 said Plaintiff needed to "return [her] calls by 10 P.M. Eastern  
16 Standard Time tonight."

17 4.7.7. Putting the lie to Defendant Sarah DOE's statement  
18 regarding the "finalizations department," Defendant Jane Doe  
19 ALTMAN (Audio Exhibit 25) insisted that it was "very important  
20 that [Plaintiff] return[s] the call as soon as [he] get[s] the  
21 message" regarding a matter that "literally just came across  
22 [her] desk."

23  
24  

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<sup>1</sup> All emphases in original.

1 4.7.8. Defendant Katie FREEBERG (Audio Exhibit 28) falsely said  
2 that it was "very important that [she] speak to [Plaintiff] as  
3 soon as possible" and implored Plaintiff to "give [her] a call  
4 at [his] earliest possible convenience."

5 FALSE FAMILIARITY

6 4.7.9. Defendants Devonna DOE (Audio Exhibit 10) and Tanisha DOE  
7 (Audio Exhibits 9 and 11) left messages that were deceptively  
8 friendly and flirtatious in tone and that implied a relationship  
9 between them and Plaintiff that most certainly did not, does  
10 not, and will never exist.

11 FALSE THREATS

12 4.7.10. Defendants Tom DANCE (Audio Exhibit 1) and Katie FREEBERG  
13 (Audio Exhibit 12) falsely used the term "case number" in their  
14 messages to refer to Defendant's internal account reference  
15 number, implying that the call referenced litigation when in  
16 fact it did not, *infra*.

17 4.7.11. Defendant Katie FREEBERG (Audio Exhibit 12) falsely  
18 stated that her call pertained to "litigation against  
19 [Plaintiff's] license" in conjunction with the misleading "case  
20 number" statement when in fact no such action could legally be  
21 taken or was intended to be taken, *infra*.

22 4.7.12. Defendant Katie FREEBERG (Audio Exhibit 13) falsely  
23 stated that she would have to "resolve this matter without  
24 [Plaintiff's] input" if Plaintiff did not call back and that

1 "[she] can guarantee [Plaintiff] that [he] will not like the  
2 outcome if [she is] forced to do that."

3 4.7.13. Defendant Sarah DOE (Audio Exhibit 20) stated (falsely),  
4 "this is going to be moving forward" and that she "want[s] [to  
5 at least inform [Plaintiff] of the situation and let [Plaintiff]  
6 have somewhat of a say-so in this."

7 4.7.14. Defendant Sarah DOE (Audio Exhibit 24) in an angry,  
8 abusive tone, stated that she was with GC's "finalizations  
9 department" and that Plaintiff needed to call her back by "10  
10 P.M. Eastern Standard Time tonight" lest she call Plaintiff's  
11 "employer and [Plaintiff's] payroll department."

12 4.7.15. Defendant Katie FREEBERG (Audio Exhibit 28) falsely said  
13 she was going to or already had attempted to call Plaintiff's  
14 mother and deceased grandmother in an effort to get Plaintiff to  
15 return her call.

16 4.8. The Alleged Debt does not meet the Department of Justice's  
17 criteria for student loan litigation referral.

18 4.9. RCW 19.16.260 precludes suit by unlicensed collection  
19 agencies like Defendant's Knoxville office.

20 4.10. Washington state law does not authorize revocation of any  
21 licenses for student debt defaults.

22 4.11. Defendant's conduct herein was persistent, deliberate,  
23 and in bad faith.



1 4.12. As a direct and proximate result of Defendant's conduct  
2 herein, Plaintiff has suffered embarrassment and damages.

3 **5. FIRST CAUSE OF ACTION – VIOLATION OF FDCPA**

4 **COUNT ONE – VIOLATION OF 15 U.S.C. § 1692e(10)**

5 [AGAINST ALL DEFENDANTS]

6 5.1. Defendant has attempted to collect the Alleged Debt through  
7 repeated false, misleading or deceptive representations,  
8 including:

9 5.1.1. Failure to identify itself as a debt collector in its  
10 phone calls,

11 5.1.2. Placement of telephone calls without meaningful disclosure  
12 of the caller's identity, and

13 5.1.3. The false senses of urgency, false familiarity, and false  
14 threats, *supra*.

15 **COUNT TWO – VIOLATION OF 15 U.S.C. § 1692e(11)**

16 [AGAINST ALL DEFENDANTS]

17 5.2. Defendant has failed to disclose that its phone calls were  
18 from a debt collector as required. *See, inter alia, Foti v. NCO*  
19 *Fin. Sys., Inc.*, 424 F. Supp. 2d 643, 669 (S.D.N.Y. 2006).

20 **COUNT THREE – VIOLATION OF 15 U.S.C. § 1692d(6)**

21 [AGAINST ALL DEFENDANTS]

22 5.3. Defendant has placed telephone calls to Plaintiff without  
23 meaningful disclosure of the caller's identity as required.

24 *See, inter alia, Hosseinzadeh v. M.R.S. Associates, Inc.*, 387

1 F.Supp.2d 1104, 1116 (C.D.Cal. 2005).

2 COUNT FOUR – VIOLATION OF 15 U.S.C. § 1692e(2)(A)

3 [AGAINST DEFENDANTS GC, DANCE, FREEBERG, AND SARAH DOE ONLY]

4 5.4. Defendant's false statements, express or implied, that the  
5 calls pertained to actual or pending litigation against  
6 Plaintiff or his license(s) constituted false statements of the  
7 character and/or legal status of the Alleged Debt.

8 COUNT FIVE – VIOLATION OF 15 U.S.C. § 1692e(5)

9 [AGAINST DEFENDANTS GC, DANCE, FREEBERG, AND SARAH DOE ONLY]

10 5.5. Defendant's threats to sue Plaintiff, when in fact such  
11 action could not legally be taken or was not intended to be  
12 taken, were attempts to collect the Alleged Debt through false  
13 or misleading representations and means.

14 5.6. Defendant Sarah DOE's and Katie FREEBERG's threats to  
15 contact Plaintiff's relatives, employer, and payroll department  
16 were threats to take action that could not legally be taken.

17 **6. SECOND CAUSE OF ACTION – VIOLATION OF WCAA**

18 COUNT ONE – VIOLATION OF RCW 19.16.250(15)

19 [AGAINST DEFENDANTS GC, DANCE, FREEBERG, AND SARAH DOE ONLY]

20 6.1. Defendant's threats to sue Plaintiff could not legally have  
21 been carried out at the time the threats were made.

22 6.2. Defendant's threats to contact Plaintiff's relatives,  
23 employer, and payroll department were threats that could not  
24 legally be carried out at the time the threats were made.

COUNT TWO – VIOLATION OF RCW 19.16.250(12)(a)

[AGAINST DEFENDANTS GC AND SARAH DOE ONLY]

6.3. To the extent that Defendant has communicated with Plaintiff in any form, manner or place more than three times in a single week, each such communication constitutes harassment in violation of the WCAA.

**7. THIRD CAUSE OF ACTION – VIOLATION OF WCPA**

[AGAINST DEFENDANTS GC, DANCE, FREEBERG, AND SARAH DOE ONLY]

7.1. Pursuant to RCW 19.16.440, each violation of the WCAA constitutes a *per se* violation of the WCPA.

**8. NO *BONA FIDE* ERROR DEFENSE**

8.1. To the extent that any violations of the FDCPA complained of herein were not intentional, Defendant failed to maintain procedures reasonably adapted to avoid such errors. Further, any such errors were errors of law that are not excused by the *bona fide* error defense. See *Baker v. GC Services, Inc.*, 677 F.2d 775, 779 (9<sup>th</sup> Cir. 1982). Thus, the 15 U.S.C. § 1692k(d) *bona fide* error defense does not apply.

**9. PRAYER FOR RELIEF**

9.1. WHEREFORE, Plaintiff respectfully prays the Court enter judgment against Defendants, and each of them jointly and severally, as follows:

9.1.1. For money damages, including actual damages and the maximum statutory, treble, and exemplary damages permitted under

1 the FDCPA, the WCAA, and the WCPA, and

2 9.1.2. For costs and fees of the suit, including reasonable  
3 attorney fees in the event that Plaintiff instructs counsel  
4 herein or to enforce any judgment entered herein in this or any  
5 foreign jurisdiction, and

6 9.1.3. For an order, pursuant to RCW 19.16.450, barring the  
7 collection of interest, service charges, attorney fees,  
8 collection costs, delinquency charge, or any other fees or  
9 charges otherwise legally chargeable to the Plaintiff on the  
10 Alleged Debt, and

11 9.1.4. For such other and further relief and the Court may deem  
12 just, proper and equitable.

13 DATED: September 18<sup>th</sup>, 2009

14 S/ Joseph A. Hylkema  
JOSEPH ANDREW HYLKEMA  
15 WSBA: N/A  
Plaintiff pro se  
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# EXHIBIT “A”

## HYLKEMA v. GC SERVICES LP, et al.

Audio Exhibit	Individual Defendant(s)	Date of Call	Time of Call
1	Tom DANCE and Jane Doe DANCE	February 9, 2009	7:04 P.M.
2	Belinda DOE and John Doe DOE	February 18, 2009	10:52 A.M.
3	Mike DOE	March 2, 2009	11:28 A.M.
4	Mike DOE	March 3, 2009	2:41 P.M.
5	Mike DOE	March 9, 2009	8:43 A.M.
6	Mike DOE	March 11, 2009	5:20 P.M.
7	Mike DOE	March 23, 2009	10:03 A.M.
8	GC Services LP Only	April 2, 2009	10:28 A.M.
9	Tanisha DOE	April 7, 2009	8:13 A.M.
10	Devonna DOE	April 15, 2009	5:28 P.M.
11	Tanisha DOE	April 21, 2009	8:22 A.M.
12	Katie FREEBERG	April 22, 2009	12:05 P.M.
13	Katie FREEBERG	April 30, 2009	11:58 A.M.
14	Andre DOE	May 4, 2009	10:37 A.M.
15	Andre DOE	May 11, 2009	4:51 P.M.
16	Sharon DOE	May 27, 2009	10:55 A.M.
17	Kirk BROWN	June 3, 2009	3:43 P.M.
18	Kirk BROWN	June 8, 2009	8:28 A.M.
19	Sarah DOE	June 16, 2009	1:18 P.M.
20	Sarah DOE	June 22, 2009	2:25 P.M.
21	Sharon DOE	July 9, 2009	12:51 P.M.
22	GC Services LP Only	July 13, 2009	10:03 A.M.
23	GC Services LP Only	July 15, 2009	11:16 A.M.
24	Sarah DOE	July 16, 2009	3:32 P.M.
25	Jane Doe ALTMAN	July 24, 2009	11:02 A.M.
26	Katie FREEBERG	August 11, 2009	5:30 P.M.
27	Katie FREEBERG	August 28, 2009	1:36 P.M.
28	Katie FREEBERG	September 10, 2009	1:16 P.M.